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Openly Statement of Sen. Inoué
at the Public Mark-up Hearing
by the SSCI on S. 2422
CIA Spouses' Retirement Equity Act
with Statements of
~~Sen. Barry Goldwater~~
~~Sen. Dave Durenberger~~
June 17, 1982

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OPENING STATEMENT OF
SENATOR INOUE

AT THE
PUBLIC MARK-UP HEARING

BY THE
SELECT COMMITTEE ON INTELLIGENCE

ON
S. 2422, THE CIA SPOUSES' RETIREMENT EQUITY ACT

10:00 A.M.

JUNE 17, 1982

TODAY THE SELECT COMMITTEE ON INTELLIGENCE IS MEETING IN OPEN SESSION TO MARK UP S.2422, THE CENTRAL INTELLIGENCE AGENCY SPOUSES' RETIREMENT EQUITY ACT. THIS BILL WOULD ESSENTIALLY PROVIDE THE SPOUSES OF CIA EMPLOYEES WHO HAVE SERVED ABROAD A VESTED INTEREST IN THE RETIREMENT BENEFITS OF THE EMPLOYEE. THE BILL WOULD RECOGNIZE THE CONTRIBUTIONS OF THE SPOUSES TO THIS DIFFICULT AND SOMETIMES DANGEROUS SERVICE IN BEHALF OF OUR NATIONAL INTERESTS BY PROVIDING THEM A SHARE IN RETIREMENT BENEFITS PAID AS A RESULT OF SERVICE IN THE AGENCY. SPOUSES MARRIED TO INTELLIGENCE OFFICERS FOR AT LEAST TEN YEARS WOULD BE ENTITLED TO AS MUCH AS ONE-HALF OF THE RETIREMENT ANNUITIES OF THE OFFICER, BASED ON THE LENGTH OF THE MARRIAGE DURING THE PERIOD OF SERVICE. THE RIGHTS OF THE SPOUSE TO SURVIVOR PAYMENTS UPON THE DEATH OF THE OFFICER WOULD ALSO BE SECURED. A FORMER SPOUSE WOULD BECOME ELIGIBLE TO RECEIVE THESE PAYMENTS AFTER DIVORCE, AVOIDING THE SITUATION IN WHICH DIVORCED SPOUSES HAVE BEEN LEFT WITHOUT SUFFICIENT RESOURCES TO FEND FOR THEMSELVES OR TO PURSUE ADEQUATE LEGAL REDRESS AFTER THE DISSOLUTION OF THE MARRIAGE. S.2422 WOULD ACCORD THE SPOUSES OF CIA OFFICERS SERVING ABROAD PRECISELY THE SAME BENEFITS ACCORDED TO THE SPOUSES OF FOREIGN SERVICE OFFICERS BY SECTION 814 AND RELATED PROVISIONS OF THE FOREIGN SERVICE ACT, WHICH WAS PASSED BY THE CONGRESS IN 1980.

HISTORY OF THE BILL

I INTRODUCED THIS BILL ON APRIL 22 OF THIS YEAR--AFTER BEING CONTACTED BY A GROUP OF CURRENT AND FORMER AGENCY OFFICIALS AND SPOUSES--WITH THE COSPONSORSHIP OF SENATORS GOLDWATER, MOYNIHAN, DURENBERGER, AND HUDDLESTON. WITH THE CONSENT OF THE OTHER MEMBERS OF THE COMMITTEE PRESENT, I WILL INTRODUCE THE FLOOR STATEMENTS ON THE BILL INTO THE RECORD OF THIS HEARING. THE SELECT COMMITTEE ON INTELLIGENCE CONDUCTED A HEARING ON THE BILL ON MAY 5; THIS HEARING WAS CLOSED DUE TO THE SENSITIVE NATURE OF SOME OF THE PERSONAL CASE HISTORIES DISCUSSED AT THE HEARING AND RECEIVED INTO EVIDENCE AT THAT TIME. AT THE HEARING AND THEREAFTER, THE COMMITTEE RECEIVED A WIDE RANGE OF COMMENTS ON THE BILL. THESE INCLUDED THE VIEWS OF BILL COLBY, THE FORMER DIRECTOR OF CENTRAL INTELLIGENCE; STANLEY SPORKIN, THE GENERAL COUNSEL OF THE CIA; MANY CURRENT AND FORMER CIA OFFICERS AT ALL LEVELS OF THE AGENCY; SEVERAL AGENCY SPOUSES INCLUDING BARBARA COLBY, AND EX-SPOUSES; AND OTHER INDIVIDUALS ASSOCIATED WITH THE STATE DEPARTMENT AND FOREIGN SERVICE. [I SEE SEVERAL OF THESE PEOPLE IN ATTENDANCE TODAY, AND I WOULD LIKE TO THANK THEM FOR BRINGING THIS MATTER TO OUR ATTENTION AND HELPING US IN OUR CONSIDERATION OF IT.]

THE COMMITTEE STAFF HAS CAREFULLY REVIEWED THE COMMENTS RECEIVED ON S.2422. WE ARE HERE TODAY TO REFINE THE BILL IN LIGHT OF THESE COMMENTS AND CONSIDER REPORTING THE BILL FAVORABLY FOR FURTHER ACTION BY THE SENATE.

I WOULD LIKE NOW TO DESCRIBE BRIEFLY THE RATIONALE OF THE BILL. AFTER THAT, I WILL DISCUSS A FEW OF THE MOST IMPORTANT COMMENTS WE HAVE RECEIVED ON IT AND OFFER A PACKAGE OF TECHNICAL AMENDMENTS THAT ADDRESS THESE CONCERNS. I FEEL THAT, WITH THE ADDITION OF THESE AMENDMENTS, WE WILL HAVE A VERY STRONG BILL THAT DESERVES PASSAGE AND WILL MAKE A POSITIVE CONTRIBUTION TO THE PERFORMANCE OF THE CIA AND THE PERSONAL SITUATION OF ITS EMPLOYEES.

RATIONALE FOR THE BILL

THE BASIC RATIONALE OF S.2422 IS TO RECOGNIZE THE PERSONAL AND PROFESSIONAL SACRIFICES MADE BY THE SPOUSES OF CIA OFFICERS ENGAGED IN OVERSEAS SERVICE, ESPECIALLY IN A CLANDESTINE CAPACITY. THE OVERSEAS ASSIGNMENTS, AND ALSO THE CLANDESTINE NATURE OF THE WORK OF THE OFFICER, PLACE SPECIAL DEMANDS ON THE CIA SPOUSE. IN MANY WAYS, THESE DEMANDS AND SACRIFICES ARE SIMILAR TO THOSE OF FOREIGN SERVICE SPOUSES; BUT IN SOME WAYS THEY ARE EVEN MORE SEVERE. THE CIA SPOUSE IS SUBJECTED TO GREATER PSYCHOLOGICAL AND SOCIAL PRESSURE AS A RESULT OF THE CLANDESTINE NATURE OF CERTAIN ACTIVITIES; SOME CIA SPOUSES ARE FURTHERMORE NOT IN A POSITION TO RELY ON THE PERSONAL AND SOCIAL SUPPORT OF OTHER U.S. DIPLOMATIC, OR SOMETIMES EVEN PRIVATE-SECTOR, PERSONNEL ABROAD. I WOULD LIKE TO READ TWO PARAGRAPHS ON THE CIRCUMSTANCES OF THE SPOUSES FROM THE REPORT OF THE FOREIGN RELATIONS COMMITTEE ON THE FOREIGN SERVICE ACT OF 1980, WHICH CONTAINS EQUIVALENT PROVISIONS:

"THE NATURE OF A FOREIGN SERVICE CAREER MAKES IT PARTICULARLY DIFFICULT FOR SPOUSES OF MEMBERS OF THE FOREIGN SERVICE TO ATTAIN ANY INDEPENDENT ECONOMIC SECURITY. NOT ONLY DO THE FREQUENT TRANSFERS AMONG FOREIGN SERVICE POSTS AROUND THE WORLD MILITATE AGAINST THE ESTABLISHMENT OF AN INDEPENDENT CAREER FOR A SPOUSE, BUT THE OPPORTUNITY FOR PAID EMPLOYMENT OF ANY KIND IN MOST FOREIGN COUNTRIES FOR A SPOUSE IS MINIMAL DUE TO LEGAL, LANGUAGE, AND CULTURAL BARRIERS. FOREIGN SERVICE SPOUSES, THEREFORE, HAVE LITTLE OPPORTUNITY EITHER TO ESTABLISH PENSIONS IN THEIR OWN RIGHT OR TO DEVELOP MARKETABLE SKILLS WHICH CAN BE PUT TO USE WHEN THE NEED ARISES. AT THE SAME TIME, THEY OFTEN CONTRIBUTE COUNTLESS UNPAID HOURS TO THE SERVICE. UNDER CURRENT LAW, IN THE EVENT OF DIVORCE, A FORMER SPOUSE OF A FOREIGN SERVICE MEMBER IS DENIED RETIREMENT OR SURVIVORSHIP RIGHTS UNDER THE FOREIGN SERVICE RETIREMENT SYSTEM. IN CONTRAST, UNDER SOCIAL SECURITY TODAY, A NONWORKING SPOUSE CAN ACQUIRE A PENSION BASED ON THE WORK OF HIS OR HER SPOUSE."

* * * * *

"EQUALLY UNSATISFACTORY IS THE DECISION WHICH I MAY ADD, IS THE CASE TODAY FOR CIA SPOUSES⁷ TO LEAVE THIS PROBLEM TO A SOLUTION BY COURT ORDER. ACCESS TO THE COURTS IS EXPENSIVE, PARTICULARLY FOR INDIVIDUALS SUCH AS FOREIGN SERVICE SPOUSES WHO TYPICALLY HAVE NO JOBS, NO INSURANCE, AND NO OTHER INCOME TO SPEAK OF. THERE IS NO REAL PRECEDENT FOR AWARDING TO FORMER SPOUSES A PERCENTAGE OF PENSIONS OR SURVIVOR ANNUITIES. . IN ADDITION, WIDELY VARYING DIVORCE LAWS FROM STATE TO STATE WOULD RESULT IN DIFFERENT AWARDS OF A FEDERAL BENEFIT FOR THE SAME DEPRIVATIONS. FURTHERMORE, THERE IS LITTLE OR NO AWARENESS AMONG THE LEGAL COMMUNITY OF THE SPECIAL PROBLEMS FACED BY FOREIGN SERVICE SPOUSES. FINALLY, OVERSEAS SERVICE FREQUENTLY RESULTS IN CUTTING OFF THESE INDIVIDUALS FROM THEIR COMMUNITY ROOTS, THEREBY EXACERBATING THE PROBLEMS NORMALLY FACED BY WOMEN SEEKING DIVORCE. IN PARTICULAR, THIS RESULTS IN RELIANCE ON A HUSBAND'S LAWYER OR ON HIS RECOMMENDATION. THIS SECTION THEREFORE, SEEKS TO PROVIDE SOME PROTECTION FOR THESE INDIVIDUALS THROUGH THE MECHANISM OF THE RETIREMENT SYSTEM."

IT WOULD BE IMPOSSIBLE IN TODAY'S PUBLIC HEARING TO COMMUNICATE THE FULL DIMENSIONS OF THE DIFFICULTIES FACED BY CIA OFFICERS AND THEIR SPOUSES IN CLANDESTINE SERVICE ABROAD. THE COMMITTEE HAS RECEIVED MANY CASE HISTORIES, AND WE WILL TRY, WITH THE COOPERATION OF THE AGENCY, TO PREPARE THESE FOR PUBLIC RELEASE. OUR CONSIDERATION OF S.2422 SHOULD CERTAINLY HELP TO BRING THE SYMPATHETIC ATTENTION OF ALL AMERICANS TO THESE DIFFICULTIES AND TO THE PERSONAL SACRIFICES MADE BY CIA OFFICERS AND THEIR FAMILIES.

BEFORE PROCEEDING TO OFFER SOME TECHNICAL AMENDMENTS TO S.2422, I WOULD LIKE TO ADD A FEW WORDS ABOUT EXACTLY HOW THE BILL ADDRESSES THE CONCERNS OF THE SPOUSES WITHOUT SUBSTANTIALLY PREJUDICING THE INTERESTS OF CIA OFFICERS. AS I MENTIONED, THE BILL WOULD ENTITLE THE SPOUSES OF CIA OFFICERS WHO HAVE SERVED A SIGNIFICANT PERIOD OF TIME ABROAD TO A SHARE IN THE OFFICER'S RETIREMENT BENEFITS IN CASE THEIR MARRIAGE LATER ENDS IN DIVORCE. THE BILL WOULD ALSO SEE TO IT THAT THEIR SHARE IN THE OFFICER'S SURVIVORSHIP BENEFITS WOULD BE RETAINED EVEN AFTER DIVORCE, AND PROTECTED FROM BEING WAIVED WITHOUT THEIR CONSENT. THESE BENEFITS WILL PROTECT FORMER SPOUSES OF CIA OFFICERS FROM DIFFICULT ECONOMIC SITUATIONS DURING AND AFTER DIVORCE. SINCE SUCH BENEFITS WOULD BE RECEIVED DIRECTLY FROM THE RETIREMENT SYSTEM, AND NOT FROM THE FORMER PARTNER IN MARRIAGE, THE BENEFITS WOULD BE MORE DEPENDABLE AND EASIER TO CLAIM.

BUT THIS BILL DOES NOT REQUIRE THAT THE APPORTIONMENT OF RETIREMENT BENEFITS THAT IT PRESCRIBES BE FINAL OR PRECLUDE ANOTHER OUTCOME BEING REACHED AS A RESULT OF DIVORCE PROCEEDINGS. UNDER SECTION 8 OF THIS BILL, A DIFFERENT DIVISION OF THE RETIREMENT BENEFITS -- AS WELL AS OTHER MARITAL ASSETS -- COULD BE CONCLUDED BETWEEN THE PARTIES AS A RESULT OF AN AGREEMENT BETWEEN SPOUSES OR A JUDICIAL ORDER OR PROPERTY SETTLEMENT INCIDENTAL TO DIVORCE PROCEEDINGS. SO, WHILE THE BILL WOULD GENERALLY PRESCRIBE A CERTAIN SHARE FOR THE FORMER SPOUSE OF THE OFFICER'S RETIREMENT BENEFITS, THIS DIVISION WOULD NOT BE FINAL. THE PARTIES, THROUGH PERSONAL AGREEMENT, OR THE STATE DIVORCE COURTS, WOULD BE COMPLETELY FREE TO ESTABLISH FINALLY THE DIVISION OF MARITAL ASSETS IN CONNECTION WITH DIVORCE -- INCLUDING THE RETIREMENT BENEFITS.

IN THIS RESPECT, THE BILL DOES NOT RESULT IN ANY SUBSTANTIVE CHANGE IN CURRENT LAW. UNDER AN EXECUTIVE ORDER SIGNED IN 1980, MOST CIA RETIREMENT BENEFITS ARE ALREADY FULLY SUBJECT TO JUDICIAL DIVORCE PROCEEDINGS, AND THE DIVORCE COURTS CAN ORDER THE AGENCY TO PAY ALL OR PART OF SUCH BENEFITS TO THE FORMER SPOUSE. S.2422 SIMPLY PROTECTS THE FORMER SPOUSE FROM A DIFFICULT ECONOMIC SITUATION PRIOR TO THE FINAL DIVORCE PROCEEDINGS AND ENSURES THE SPOUSE'S PRESUMPTIVE RIGHT TO PAYMENT DIRECTLY FROM THE RETIREMENT SYSTEM. IT DOES NOT MAKE A SUBSTANTIVE DIVISION OF MARITAL ASSETS, WHICH CAN COME ONLY THROUGH JUDICIAL DIVORCE PROCEEDINGS IN THE STATE COURTS.

TECHNICAL AMENDMENTS TO THE BILL

I WOULD NOW LIKE TO DISCUSS THE PACKAGE OF EIGHT AMENDMENTS THAT -- WITH THE UNANIMOUS CONSENT OF THE MEMBERS PRESENT -- I OFFER TO COMPLETE THE DEVELOPMENT OF THIS BILL. THESE AMENDMENTS HAVE BEEN DRAFTED IN RESPONSE TO THE MANY HELPFUL COMMENTS THE COMMITTEE HAS RECEIVED ON THIS BILL.

I. COVERAGE OF ALL CIA EMPLOYEES

FIRST, I WISH TO OFFER AN AMENDMENT THAT ALL CIA EMPLOYEES WHO ENGAGE IN A SUBSTANTIAL PERIOD OF OVERSEAS SERVICE BE COVERED BY THE ACT. S.2422 AS IT WAS FIRST INTRODUCED CONTAINED ONLY AMENDMENTS TO THE CIA RETIREMENT AND DISABILITY SYSTEM -- CIARDS ("SEE-ARDS"). BASICALLY IT ADAPTED THE VERY DETAILED AND CAREFULLY CONSIDERED STATUTORY PROVISIONS OF THE FOREIGN SERVICE ACT OF 1980 IN THIS REGARD FOR INSERTION INTO THE CIARDS RETIREMENT SCHEME.

AT OUR CLOSED HEARING ON THE BILL AND IN THEIR LATER, DETAILED COMMENTS ON IT, CIA OFFICIALS ASKED THAT WE EXTEND THE COVERAGE OF THE BILL TO INCLUDE ALL CIA EMPLOYEES, PROVIDED THEY HAVE SPENT FIVE YEARS IN OVERSEAS SERVICE. THE HOUSE OF REPRESENTATIVES HAS RECENTLY PASSED, AS PART OF THEIR ANNUAL INTELLIGENCE AUTHORIZATION BILL, A SET OF PROVISIONS THAT WOULD APPLY FORMER SPOUSE PROVISIONS TO ALL SUCH EMPLOYEES. I PROPOSE THAT WE ACCEPT THE COMMENTS OF THE AGENCY AND THE PROPOSAL OF THE HOUSE, TO COVER THAT SMALL NUMBER OF QUALIFIED CIA EMPLOYEES WHO PARTICIPATE IN THE CIVIL SERVICE RETIREMENT SYSTEM RATHER THAN CIARDS. THIS WILL ENSURE THAT THE PROVISIONS OF THE TWO SYSTEMS ARE EQUIVALENT IN THIS REGARD, AND THAT EMPLOYEE RETIREMENT OPTIONS ARE NOT DISTORTED IN ANY WAY BY PASSAGE OF THIS LEGISLATION.

AT THE SAME TIME, I AM SATISFIED THAT THE DETAILED STATUTORY AMENDMENTS WE HAVE DRAFTED FOR CIARDS ARE SOUND. THEY ARE NEARLY IDENTICAL TO THE DETAILED PROVISIONS OF THE FOREIGN SERVICE ACT, WHICH WERE CAREFULLY CONSIDERED BY CONGRESS AND HAVE NOW BEEN ADMINISTERED FOR MORE THAN A YEAR BY THE STATE DEPARTMENT. THEY HAVE ALSO BEEN SUBJECT TO EXTENSIVE COMMENTARY IN OUR PROCEEDINGS ON THIS BILL. I THEREFORE PROPOSE THAT WE RETAIN OUR STATUTORY AMENDMENTS FOR CIARDS BUT ADD A SECTION, DRAWN FROM THE HOUSE BILL, WHICH WOULD ENABLE THE DIRECTOR OF CENTRAL INTELLIGENCE TO APPLY CORRESPONDING PROVISIONS TO THE CIVIL SERVICE EMPLOYEES. AMENDMENT 1 WHICH I AM SUBMITTING TODAY PROVIDES FOR THE COVERAGE OF ALL CIA EMPLOYEES; AMENDMENT 2 SPECIFIES THAT TO BE COVERED SUCH EMPLOYEES MUST SERVE FIVE YEARS OVERSEAS.

II. THE PROBLEM OF EXCESS CONTRIBUTIONS

WHILE WE WERE CONSIDERING AMENDMENTS TO THE CIARDS SYSTEM, THE AGENCY BROUGHT TO OUR ATTENTION THE FACT THAT UNDER CIARDS -- UNLIKE OTHER FEDERAL RETIREMENT SYSTEMS -- THE EMPLOYEE MUST CONTINUE MAKING CONTRIBUTIONS TO THE FUND EVEN AFTER HE HAS MADE A COMPLETE CONTRIBUTION FOR HIS RETIREMENT. AMENDMENT 3 WOULD RESPOND TO THE CONCERNS OF AGENCY OFFICIALS BY PLACING A "CAP" ON EMPLOYEE CONTRIBUTIONS TO CIARDS AND PROVIDES FOR REFUND OF ANY EXCESS CONTRIBUTIONS TO THE SYSTEM.

III. LUMP-SUM PAYMENTS

IT HAS COME TO LIGHT DURING OUR HEARINGS ON S.2422 AND IN THE COMMENTS RECEIVED ON THE BILL THAT A PROVISION -- EQUIVALENT TO THE FOREIGN SERVICE ACT -- COVERING LUMP-SUM PAYMENTS FROM THE RETIREMENT SYSTEM HAD BEEN INADVERTENTLY OMITTED FROM THE BILL. ACCORDINGLY, AMENDMENT 4 WOULD ADD A NEW SECTION TO THE BILL TO DEAL WITH THIS PROBLEM. WE HAVE ALSO ADDED A NEW PROVISION THAT REQUIRES THAT THE EXPRESS CONSENT OF A SPOUSE BE RECEIVED BEFORE AN EMPLOYEE CAN MAKE SUCH A WITHDRAWAL FROM THE SYSTEM. THIS WILL ENSURE THAT THE AMENDMENTS WE HAVE PROPOSED ARE NOT DEFEATED, AND PROTECT THE INTERESTS OF BOTH CURRENT AND FORMER SPOUSES.

IV. RECOGNITION OF COURT ORDERS AND SPOUSAL AGREEMENTS

I HAVE ALREADY NOTED THAT THE DIVISION OF RETIREMENT BENEFITS SPECIFIED IN THE BILL IS ONLY PRESUMPTIVE AND THAT THE COURTS REMAIN COMPLETELY FREE TO DIVIDE ALL MARITAL ASSETS AT THE TIME OF DIVORCE. IT HAS COME TO OUR ATTENTION THAT THE SECTION OF S.2422 DRAFTED FOR THIS PURPOSE CONTAINED AN ERROR. THE SECTION WAS DRAWN FROM THE EXISTING EXECUTIVE ORDER PROVIDING FOR SUCH JUDICIAL ACTION, AND FAILED TO TAKE ACCOUNT OF THE CHANGES WORKED BY THE BILL. AMENDMENT 5 CORRECTS THIS ERROR AND FULLY PRESERVES THE ABILITY OF COURTS, OR THE SPOUSES THEMSELVES BY AGREEMENT, TO PROVIDE FOR AN ALTERNATIVE DISTRIBUTION OF MARITAL ASSETS INCLUDING THE RETIREMENT BENEFITS.

V. THE VALIDITY OF SPOUSAL AGREEMENTS AND COURT ORDERS
INCIDENTAL TO DIVORCE

THE CIA HAS FORWARDED COMMENTS TO US BASED ON THE EXPERIENCE OF THE DEPARTMENT OF STATE IN ADMINISTERING THE FOREIGN SERVICE ACT PROVISIONS. THE STATE DEPARTMENT HAS FOUND IT UNNECESSARY TO LIMIT THE EFFECTIVENESS OF SPOUSAL AGREEMENTS AND COURT ORDERS INCIDENTAL TO DIVORCE TO THOSE CONCLUDED WITHIN ONE YEAR OF A DIVORCE. ELIMINATING THIS REQUIREMENT WILL ALLOW THE PARTIES AND THE COURTS TO READJUST THE DIVISION OF MARITAL ASSETS IN AN EQUITABLE MANNER, DEPENDING ON THE RELATIVE CONDITION OF THE FORMER SPOUSES, WHENEVER THIS SITUATION IS DEEMED TO HAVE CHANGED. AMENDMENT 6 THEREFORE DELETES THE ONE-YEAR TIME LIMIT ON THESE ACTIONS.

VI. WAIVER OF SURVIVORSHIP RIGHTS

SIMILARLY, TWO PARTS OF ONE SECTION OF S.2422 WOULD HAVE PLACED TIME LIMITS ON THE WAIVER, WITH CONSENT, OF THE SPOUSE'S RIGHT TO SURVIVOR PAYMENTS. THE CIA, BASED ON STATE DEPARTMENT EXPERIENCE, HAS SUGGESTED THAT WE REMOVE THIS LIMITATION.

AMENDMENT 7 DOES THIS.

VII. EFFECTIVE DATE

THE AGENCY HAS REQUESTED A CERTAIN PERIOD OF TIME TO PREPARE TO IMPLEMENT THE PROVISIONS OF S.2422. AMENDMENT 8 ACCORDINGLY ADDS A NINETY-DAY PERIOD PRIOR TO THE BILL'S COMING INTO EFFECT AFTER ITS ENACTMENT.

CONCLUSION

HAVING DESCRIBED THE BILL AND ITS PURPOSES, AND HAVING OFFERED THESE TECHNICAL AMENDMENTS TO MAKE SURE THAT WE HAVE A SOUND BILL, I WILL CLOSE MY REMARKS. I WISH TO THANK EVERYONE HERE TODAY FOR THEIR SUPPORT IN DEVELOPING THIS LEGISLATION. I AM SURE THAT MY FELLOW MEMBERS ON THE COMMITTEE WOULD NOW LIKE TO ADD THEIR WORDS, OR ASK QUESTIONS, ABOUT THIS BILL AND ITS EFFECTS.

Amendment 1: Inclusion of Civil Service Retirement and Disability System Participants

S.2422 as introduced April 22, 1982 is amended as follows:

- (1) The caption of the bill is changed to read:

"To provide for equitable sharing by the spouses of qualified Central Intelligence Agency officers in retirement benefits earned as a result of service with the Agency."

- (2) The enacting clause is amended to read:

"That this Act may be cited as the 'Central Intelligence Agency Spouses' Retirement Equity Act of 1982.'"

- (3) The following new section is added:

"Civil Service Employees"

"Sec.12. The Central Intelligence Agency Act of 1949 (50 U.S.C. 403 a-m) is amended by adding at the end the following new section:

'Sec. 14. (a) Any qualified former spouse of an employee of the Agency, which employee is a participant in the Civil Service Retirement and Disability System, is entitled to an annuity under such retirement system--

'(1) if married to the participant throughout the creditable service of the participant, equal to 50 per centum of the annuity of the participant; or

'(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 per centum of such annuity.

'(b) Any qualified former spouse of such employee of the Agency, which employee is a former participant in the Civil Service Retirement and Disability System and is survived by such former spouse, is entitled to an annuity under such retirement system--

'(1) if married to the participant throughout the creditable service of the participant, equal to 55 per centum of the full amount of the participant's annuity; or

'(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 55 per centum of the full amount of such annuity.

'(c) Notwithstanding subsections (a) and (b), benefits for qualified former spouses shall--

'(1) commence and terminate; and

'(2) be subject to limitation or modification

because of lump sum payments, spousal agreements, court orders, multiple spouses or former spouses, recall or reinstatement to service, or other circumstances in a manner comparable to the manner in which benefits for former spouses of participants are administered under the Central Intelligence Agency Retirement Act of 1964 for certain employees.

'(d) The Director of the Office of Personnel Management in consultation with the Director of Central Intelligence shall issue such regulations as are necessary to implement the provisions of this section.

'(e)(1) The provisions of this section regarding the rights of former spouses to any annuity under subsection (a) shall apply in the case of any individual who after the effective date of this section becomes a former spouse of an individual who separates from the Agency after such date.

'(2) Except to the extent that it is inconsistent with an election made which is comparable to an election under section 223 of the Central Intelligence Agency Retirement Act of 1964 for certain employees, the provisions of this section regarding the rights of former spouses to receive survivor annuities under subsection (b) shall apply in the case of any individual who after the effective date of this section becomes a former spouse of a participant or former participant in the Civil Service Retirement and Disability System.'"

Amendment 2: Overseas Service Requirement; Creditable Service

Sec. 2(2) of S.2422, as it was introduced on April 22, 1982, is amended to read as follows:

"(2) by adding at the end thereof the following:

'(4) "Former spouse" means a former wife or husband of a participant or former participant who was married to such participant for not less than ten years during periods of service by that participant which are creditable under sections 251, 252 and 253 of this Act, at least five years of which were spent overseas by both the participant and the former spouse.'"

Amendment 3: Excess Contributions to CIARDS

A new section is added to S.2422 as introduced on April 22, 1982, as follows:

"Sec. 11. Section 211 of the Central Intelligence Agency Retirement Act of 1964 for certain employees is amended by adding at the end thereof the following new subsection:

'(c) Amounts deducted and withheld from the basic salary of a participant under this section from the beginning of the first pay period after the participant has completed 35 years of creditable service computed under sections 251 and 252 (excluding service credit for unused sick leave under section 221(h)), together with interest on these amounts at the rate of 3 percent a year compounded annually from the date of the deduction to the date of retirement or death, shall be applied toward any special contribution due under section 252(b) and any balance not so required shall be refunded in a lump sum to the participant after separation (or, in the event of a death in service, to a beneficiary in order of precedence specified in subsection 241(b)(1)), subject to any restrictions on lump sums under section 234 of this Act regarding notification or consent of a spouse or prior spouse to such payments, or the participant may use these sums to purchase an additional annuity in accordance with section 281, or any other elective benefits authorized by this Act, including additional retirement or survivorship benefits for a current or former spouse or spouses.

Amendment 4: Lump Sum Payments

A new section is added to S.2422 as introduced on April 22, 1982, as follows:

"Sec. 8. Section 234 of the Central Intelligence Agency Retirement Act of 1964 for certain employees is amended as follows:

(1) The word "Any" in subsection (a) is stricken and replaced with the following phrase:

'Subject to any limitations contained in subsections (c) or (d), any"'.

(2) The following new subsection is added to that section:

"(c) Unless otherwise expressly provided by any spousal agreement or court order under section 263(b), the amount of a participant's or former participant's lump-sum credit payable to a former spouse of that participant shall be--

"(1) if the former spouse was married to the participant throughout the period of creditable service of the participant, 50 percent of the lump-sum credit to which such participant would be entitled in the absence of this subsection, or

"(2) if such former spouse was not married to the participant throughout such creditable service, an amount equal to such former spouse's pro rata share of 50 percent of such lump-sum credit.

The lump-sum credit of the participant shall be reduced by the amount of the lump-sum credit payable to the former spouse."

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(3) The following new subsection is also added to that section:

"(d) A lump sum payment under this section or section 241 of this Act may be paid by the Director to or for the benefit of a participant only upon written notification by the Director to a current spouse of the participant, if any, or any former spouse with whom the participant has not concluded a final, legally recognizable and enforceable property settlement or judgment incident to divorce proceedings, and the express written waiver of that spouse or former spouse has been received by the Director.

Amendment 5: Recognition of Court Orders and
Spousal Agreements

Sec. 8 of S.2422 as introduced on April 22, 1982 is amended as follows:

(1) By amending the phrase "Sec. 8" to read "Sec. 9";

(b) By amending subsection (2) to read:

"(2) by adding at the end thereof the following:

'(b). Payments under this Act which would otherwise be made to a participant or the child, survivor, or former spouse of a participant based upon the service of the participant shall be paid (in whole or in part) by the Director directly to the participant, or child, survivor, or former spouse of the participant according to the terms of any legally enforceable spousal agreement or recognized court decree of divorce, annulment, or legal separation between the participant and that former spouse, or the terms of any recognized court order or court-approved property settlement incident to any such spousal agreement or court decree of divorce, annulment, or legal separation. Any payment under this subsection to a party to a spousal agreement, or court decree of divorce, annulment, or legal separation or property settlement agreement incident thereto shall bar recovery by any other person. '"

Amendment 6: Validity of Spousal Agreements and Court
Orders Incidental to Divorce

S.2422 as introduced April 22, 1982 is amended as follows:

- (1) Lines 17 to 21 of page 9 of the bill are deleted;
- (2) The word "(5)" on line 22 of page 9 is changed to read "(4)";
- (3) The word "(6)" on line 14 of page 10 of the bill is changed to read "(5)";
- (4) The word "(7)" on line 1 of page 11 of the bill is changed to read "(6)".

Amendment 7: Waiver of Survivorship Rights

S.2422 as introduced April 22, 1982, is amended as follows:

- (1) Lines 4 to 16 of page 3 of the bill are stricken and in their place the following language is inserted:

"(B) A married participant or former participant and his or her spouse may jointly elect in writing to waive a survivor annuity for that spouse under this section (or under section 222(b) if the spouse later qualified as a former spouse under section 204(b)(4)), or to reduce such survivor annuity under this section (or section 222(b)) by designating a portion of the annuity of the participant as the base for the survivor benefit. If the marriage is dissolved following an election for such a reduced annuity and the spouse qualifies as a former spouse, the base used in calculating any annuity of the former spouse under section 222(b) may not exceed the portion of the participant's annuity designated under this subparagraph."

- (2) Lines 17 to 24 of page 3 of the bill are stricken and in their place the following language is inserted:

"(C) If a participant or former participant has a former spouse, the participant and such former spouse may jointly elect by spousal agreement under section 263(b) to waive a survivor annuity under section 222(b) for that former spouse."

Amendment 8: Effective Date; Technical Amendments

S.2422 as introduced April 22, 1982 is amended as follows:

(1) On line 9 of page 18, the phrase "Sec. 9" is amended to read "Sec. 10";

(2) Sec. 10(a) is amended to read:

"Sec. 13(a) Except as provided in subsections (b) and (c) of this section, this Act shall take effect ninety days after the date of its enactment."

STATEMENT OF
CHAIRMAN BARRY GOLDWATER
OF THE
SENATE SELECT COMMITTEE ON INTELLIGENCE
AT THE PUBLIC MARKUP OF
S. 2422, THE CIARDS SPOUSES' EQUITY ACT OF 1982
THURSDAY, JUNE 17, 1982

THE MEETING WILL COME TO ORDER.

TODAY, THE SELECT COMMITTEE ON INTELLIGENCE IS MEETING IN OPEN SESSION TO MARKUP S. 2422, THE CENTRAL INTELLIGENCE AGENCY SPOUSES' RETIREMENT EQUITY ACT. THIS BILL WOULD ESSENTIALLY PROVIDE THE SPOUSES OF CIA EMPLOYEES WHO HAVE SERVED ABROAD A VESTED INTEREST IN THE RETIREMENT BENEFITS OF THE EMPLOYEE. I AM PLEASED TO JOIN MY GOOD FRIEND, THE DISTINGUISHED FORMER CHAIRMAN OF THE SENATE SELECT COMMITTEE ON INTELLIGENCE, SENATOR INOUE, AS A COSPONSOR OF THIS BILL.

THE PURPOSE OF THIS BILL IS TO SET UP A SYSTEM THAT WOULD PROVIDE CIA SPOUSES WITH RIGHTS TO SURVIVORS PENSIONS. IT WOULD ALSO GIVE SOME DEGREE OF PROTECTION TO SPOUSES WHOSE MARRIAGES END IN DIVORCE PROCEEDINGS. THESE BENEFITS ARE NOT NOW AVAILABLE TO CIA SPOUSES ALTHOUGH THEY HAVE BEEN PROVIDED TO FOREIGN SERVICE SPOUSES. I BELIEVE THAT IT IS HIGH TIME WE GIVE THIS CONSIDERATION TO CIA SPOUSES AS WELL.

SENATOR INOUE'S BILL WOULD ALLOW CIA SPOUSES TO GET THE SAME TREATMENT AVAILABLE TO FOREIGN SERVICE SPOUSES BY ALLOWING QUALIFIED

FORMER SPOUSES TO SHARE IN THEIR DIVORCED PARTNER'S RETIREMENT BENEFITS. IT ALSO MAKES THEM ELIGIBLE FOR SURVIVORSHIP BENEFITS.

IN MY JUDGMENT, CIA SPOUSES DESERVE THIS CONSIDERATION. THEY ARE CALLED UPON TO SERVE IN REMOTE POSTS OVERSEAS. THEY ARE SUBJECT TO FREQUENT TRANSFERS, AND OFTEN LIVE UNDER DIFFICULT AND DANGEROUS CONDITIONS. THEY PLAY A VERY IMPORTANT PART IN THE SUCCESS OF THE OVERALL AMERICAN MISSION ABROAD.

I ASK THAT THE REMAINDER OF MY STATEMENT BE PLACED IN THE RECORD OF THESE PROCEEDINGS. SENATOR INOUE, DO YOU HAVE A STATEMENT?

BECAUSE OF OUR DEBATE ON THE INTELLIGENCE IDENTITIES PROTECTION ACT EARLIER THIS YEAR, MANY OF OUR COLLEAGUES HAVE BECOME FAMILIAR WITH THE PERNICIOUS ACTIVITY OF "NAMING NAMES." AS YOU KNOW, NAMING NAMES IS AN ACTIVITY WHERE CERTAIN DISLOYAL AMERICANS FERRET OUT THE NAMES OF OUR COVERT AGENTS ABROAD, AND PUBLISH THESE NAMES FOR ALL TO SEE.

WE ALL KNOW THAT RICHARD WELCH WAS ASSASSINATED BECAUSE OF NAMING NAMES. HAS ANYONE EVER STOPPED TO THINK HOW MR. WELCH'S WIFE AND FAMILY WERE AFFECTED BY THIS MURDEROUS ACT? WHEN THE KINSMAN FAMILY HOME WAS MACHINE-GUNNED AND BOMBED IN JAMAICA TWO YEARS AGO, DID ANYONE EVER STOP TO THINK HOW THIS VICIOUS ACT AFFECTED MRS. KINSMAN AND HER FAMILY? DID ANYONE EVER WONDER WHAT THE KINSMAN'S YOUNG DAUGHTER MUST THINK ABOUT THE FACT THAT HER BEDROOM WAS RIDDLED WITH BULLET HOLES?

LET ME GIVE AN EXAMPLE OF THE TYPE OF ADVERSE PUBLICITY THAT SPOUSES OF AMERICAN CIA AGENTS SERVING ABROAD OFTEN HAVE TO FACE.

ON PAGE 292 OF LOUIS WOLF'S BOOK TITLED "DIRTY WORK 2: THE CIA IN AFRICA," THE FOLLOWING TWO PARAGRAPHS WERE WRITTEN OF THE CIA SPOUSE IN THE CONTEXT OF PERNICIOUS ACTIVITY OF NAMING NAMES:

WHERE AVAILABLE, WE HAVE INCLUDED THE NAME OF THE PERSON'S SPOUSE, AS OF THE MOST RECENT AVAILABLE OFFICIAL SOURCE, TO AID IN FURTHER IDENTIFICATION. WE HAVE TRIED TO GIVE THE WIFE'S MAIDEN NAME. THE DIVORCE RATE IN THE CIA IS HIGH, SO THESE WILL SOMETIMES NOT BE CURRENT.

IN THIS CONNECTION, IT MUST BE SAID THAT CIA WIVES (AND HUSBANDS) NEARLY ALWAYS KNOW WHAT AGENCY IS EMPLOYING THEIR SPOUSES. NORMALLY, THEY HAVE AN ACTIVE ROLE TO PLAY IN MAINTAINING COVER, EVEN ON OCCASION TAKING PART IN SPECIFIC OPERATIONAL ACTIVITIES. THUS, THE SPOUSE OF A CIA OFFICER IS NO "JUST A WIFE OR HUSBAND."

I THINK WE CAN DRAW TWO IMPORTANT POINTS FROM THIS QUOTE.

FIRST, THE ENEMIES OF AMERICAN INTELLIGENCE, SUCH AS LOUIS WOLF, CONSIDER THE CIA SPOUSE TO BE EQUAL TO THEIR PARTNER WHEN SERVING OVERSEAS. THEY IMPLY, THEREFORE, THAT IT IS OK TO TREAT THEM IN THE SAME FASHION THAT OUR CIA AGENTS HAVE BEEN TREATED IN RECENT YEARS. THEY SUGGEST IN THIS QUOTATION THAT YOU CAN HARASS CIA SPOUSES, OR THROW BOMBS AT THEIR HOMES, OR THREATEN THEIR CHILDREN, AND THAT IS OK. THIS IS THE SORT OF SITUATION THAT THE CIA SPOUSE AND FAMILY MAY BE FORCED TO COPE WITH WHEN SERVING OVERSEAS.

SECOND, DIVORCE RATES AMONG CIA FAMILIES ARE UNUSUALLY HIGH. PROBABLY THIS IS BECAUSE OF THE MANY PRESSURES THE CIA FAMILY MUST FACE WHILE SERVING THIS CONGRESS AND THE NATION ON DIFFICULT MISSIONS OVERSEAS.

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I FOR ONE BELIEVE THAT THIS LEGISLATION WOULD RECOGNIZE IN A SMALL BUT IMPORTANT WAY THE SIGNIFICANCE OF THE SERVICE OF THESE LOYAL AND PATRIOTIC AMERICANS. IT WOULD GO A LONG WAY TO HELP INSURE THAT THESE PEOPLE ARE PROTECTED LATER IN LIFE, REGARDLESS OF THEIR FUTURE MARITAL CIRCUMSTANCES. IT WOULD RECOGNIZE IN A SMALL WAY THEIR VITAL SERVICE TO THEIR NATION.

THIS BILL, IF ENACTED, WOULD CREATE NO SIGNIFICANT COSTS TO THE U.S. GOVERNMENT. NOR DOES IT RESULT IN ANY SUBSTANTIAL CHANGE IN CURRENT LAW.

I COMMEND SENATOR INOUE FOR HIS LEADERSHIP IN BRINGING THIS SITUATION TO OUR ATTENTION. IT HAS BEEN OVERLOOKED FOR A LONG TIME. I BELIEVE IT IS TIME WE DO SOMETHING ABOUT IT, AND THIS BILL SEEMS TO ME TO BE A VERY GOOD WAY. I URGE MY COLLEAGUES TO SUPPORT AND COSPONSOR THIS IMPORTANT LEGISLATION.

STATEMENT OF SENATOR DAVE DURENBERGER
ON SENATE INTELLIGENCE COMMITTEE MARK-UP
OF THE CIA SPOUSES' RETIREMENT EQUITY ACT (S. 2422)

ASK THE AVERAGE PERSON TO DESCRIBE THE TYPICAL CIA OFFICER AND CHANCES ARE YOU WILL GET A PORTRAIT OF JAMES BOND: THE YOUNG, DASHING, DARING AND, ABOVE ALL ELSE, UNMARRIED SECRET AGENT.

THE FACT IS, OF COURSE, THE TYPICAL INTELLIGENCE OFFICER IS A FAR CRY FROM THE MOVIE IMAGE. WE HAVE DEDICATED, HARD-WORKING MEN AND WOMEN WHO IN MANY CASES, ARE JOINED IN AND REINFORCED IN THEIR COMMITMENT TO OUR COUNTRY BY THEIR SPOUSES AND FAMILIES.

TODAY THE SENATE INTELLIGENCE COMMITTEE IS RECOGNIZING THAT NATIONAL SECURITY INTELLIGENCE IS MORE THAN TRADECRAFT AND TECHNOLOGY. INTELLIGENCE IS ALSO PEOPLE, INTELLIGENCE OFFICERS AND THEIR FAMILIES, GIVING OF THEMSELVES FOR THE SAKE OF THEIR FELLOW CITIZENS.

THE HUMAN DIMENSION OF INTELLIGENCE IS TERRIBLY IMPORTANT. I HAVE SEEN THE CONDITIONS IN WHICH INTELLIGENCE PERSONNEL MUST WORK. IT'S NO BED OF ROSES WHEN YOU HAVE TO VARY YOUR ROUTES TO AND FROM THE OFFICE, IN CASE TERRORISTS ARE WAITING FOR YOU. IT'S NOT EASY, ECONOMICALLY OR EMOTIONALLY, WHEN SPOUSES ARE SENT TO POSTS IN WHICH PROFESSIONAL EMPLOYMENT IS FORBIDDEN BY THE LAWS

OR CUSTOMS OF THE HOST COUNTRY OR DIFFICULT TO ARRANGE.

THESE TENSIONS AND FRUSTRATIONS OFTEN LEAD TO SUBSTANTIAL PROBLEMS FOR AMERICAN INTELLIGENCE. FAMILIES ARE LESS WILLING TO BE MOVED AROUND THE WORLD AT THE GOVERNMENT'S WHIM. THE STRAINS ON FAMILIES ARE SEEN BY MORE PEOPLE AS REASONS NOT TO PURSUE A CAREER THAT IS VITAL TO OUR NATIONAL SECURITY.

MANY OF THESE PROBLEMS CANNOT BE AVOIDED, BUT WE CAN EASE SOME OF THE EMOTIONAL AND ECONOMIC TENSIONS. THIS BILL WILL ASSURE THE SPOUSES OF CIA OFFICERS OVERSEAS THAT THEIR MANY YEARS OF SERVICE TO THEIR PARTNERS AND THEIR COUNTRY WILL NOT END IN A NIGHTMARE OF POVERTY BECAUSE OF DIVORCE.

THE ECONOMIC EQUITY ACT (S. 888), WHICH I INTRODUCED LAST YEAR, IS A PARALLEL BILL COVERING THE CIVIL SERVICE AND MILITARY RETIREMENT SYSTEMS. I AM PLEASED TO HAVE OUR VICE CHAIRMAN AS A CO-SPONSOR OF THAT BILL. JUST AS I AM SURE THAT S. 2422 WILL PASS, SO I AM SURE THAT IN TIME ALL GOVERNMENT RETIREMENT SYSTEMS WILL CONTAIN THIS BASIC EQUITY. IT IS THE PATH OF BOTH FAIRNESS AND PRACTICALITY.

I AM CONFIDENT THAT S. 2422 WILL AID IN THE RECRUITMENT OF BRIGHT, MOTIVATED PEOPLE TO SERVE THE CIA. IT WILL ALSO LEAD TO A BETTER FAMILY LIFE FOR CIA OFFICERS OVERSEAS, BY GIVING SPOUSES THE ASSURANCE OF SOME ECONOMIC SECURITY FOR THEMSELVES AND THEIR FAMILIES.

THE CIA SPOUSES' RETIREMENT EQUITY ACT IS MORE, OF COURSE, THAN JUST A RESPONSE TO PERSONNEL PROBLEMS. IT IS TANGIBLE AFFIRMATION OF THE PRINCIPLE OF FAIRNESS. A PERSON WHO, FOR OVER TEN YEARS, SHARES THE LIFE OF AN INTELLIGENCE OFFICER DESERVES TO SHARE IN THE ECONOMIC SECURITY THAT THE OFFICER ACHIEVES DURING THAT TIME. A LATER DIVORCE DOES NOT ERASE THE SPOUSE'S CONTRIBUTION; WE NEVER REGAIN THOSE YEARS.

WE HAVE ASKED A LOT OF OUR INTELLIGENCE OFFICERS AND THEIR FAMILIES. OVER THE YEARS, THEY ALWAYS HAVE RESPONDED. NOW WE HAVE THE OPPORTUNITY TO RECOGNIZE THE CONTRIBUTIONS OF CIA SPOUSES AND REPAY THEM BY ASSURING EQUITY. IN GOOD CONSCIENCE, WE CAN DO NO LESS.